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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 RITA CAGLIOSTRO,
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10 Plaintiff,

11 v.

12 FORREST R. COLLINS,
13

14 Defendant.

Case No. C18-425RSM

ORDER DENYING MOTION FOR
INTERLOCUTORY APPEAL

15 The instant matter comes before the Court on Plaintiff Rita Cagliostro's Motion "to
16 appeal in Forma Pauperis for the Denied Appointment of Counsel," Dkt. #40, which the Court
17 interprets as a motion for interlocutory appeal. The Court has determined that it can rule on
18 this Motion without responsive briefing.

19 *Pro se* Plaintiff Rita Cagliostro has already been granted leave to proceed *in forma*
20 *pauperis* in this matter. Dkt. #2. Ms. Cagliostro states in her Motion that she is "requesting
21 permission to appeal in Forma Pauperis the DENIED APPPOINTMENT OF COUNSEL, as its
22 own separate appeal." Dkt. #40 at 2 (emphasis in the original). She attaches a recent Order of
23 the Ninth Circuit denying her appeal of this case "because the order challenged in the appeal is
24 not final or appealable..." *Id.* at 4. All of this leads the Court to believe that Ms. Cagliostro is
25 seeking an order from this Court permitting interlocutory appeal of the Court's prior Order
26 denying appointment of counsel, Dkt. #13.
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1 Under 28 U.S.C. § 1292(b), a district court may grant interlocutory appeal if an order
2 “involves a controlling question of law” where there is “substantial ground for difference of
3 opinion” and an immediate appeal will “materially advance the ultimate termination of the
4 litigation.”

5 The Court’s prior Order stated that, in civil cases, the appointment of counsel to a *pro se*
6 litigant “is a privilege and not a right.” Dkt. #13 (citing *United States ex. Rel. Gardner v.*
7 *Madden*, 352 F.2d 792, 793 (9th Cir. 1965) (citation omitted)). The Court in that Order stated
8 the applicable standard and found Ms. Cagliostro had failed to set forth exceptional
9 circumstances warranting the appointment of counsel in this case.
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11 The Court now finds that its prior Order did not involve a controlling question of law as
12 to the merits of Ms. Cagliostro’s case, that there would not be a substantial ground for
13 difference of opinion as to the issue, and that an immediate appeal would not materially
14 advance the ultimate termination of the litigation. Given all of the above, the Court finds that
15 an interlocutory appeal is not warranted under 28 U.S.C. § 1292(b).
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17 Having reviewed the relevant briefing and the remainder of the record, the Court hereby
18 finds and ORDERS that Plaintiff Cagliostro’s Motion for Interlocutory Appeal, Dkt. #40, is
19 DENIED. The Clerk shall send a copy of this Order to Plaintiff at 212 ALASKAN WAY S.
20 #205 SEATTLE, WA 98104.
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22 DATED this 18th day of July, 2018.
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25 RICARDO S. MARTINEZ
26 CHIEF UNITED STATES DISTRICT JUDGE
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